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the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fifty-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the Elimination of Racial Discrimination

Costa Rica

1. The Committee considered the twelfth to fifteenth periodic reports of Costa Rica (CERD/C/338/Add.4), at its 1321st and 1322nd meetings (CERD/C/SR.1321 and 1322), held on 11 and 12 March 1999, and adopted, at its 1331st meeting (CERD/C/SR.1331), held on 18 March 1999, the following concluding observations.

A. Introduction

2. The Committee welcomes the opportunity to resume its dialogue with the State party after a lapse of seven years. The Committee is satisfied with the frank and constructive approach taken by the representatives of the reporting State in their dialogue with the Committee and for the additional information provided orally.

B. Positive aspects

3. The Committee welcomes the information provided by the State party that the Convention is directly applicable in the Costa Rican legal system and that it takes precedence over domestic legislation.

4. The Committee notes with interest the State party's efforts to promote equal opportunity for the indigenous population, and in particular the ratification of ILO Convention 169 on Indigenous and Tribal Peoples (1989), the existence of the National Indigenous Affairs Commission (CONAI) and the Office of the Ombudsman and the bill for the autonomous development of the indigenous people, which has been presented before the Legislative Assembly.

5. The Committee notes with appreciation that, even in times of economic crisis or natural disaster, the State party has traditionally maintained a generous refugee and immigration policy. It notes with particular interest that a "migratory amnesty" is currently in force, from 1 February 1999 to 31 July 1999, allowing for the regularization of the situation of a large number of clandestine immigrants in order to ensure their enjoyment of social, economic and cultural rights, particularly in regard to work.

C. Principal subjects of concern

6. While noting the concern of the State party to eliminate any difference of treatment in law not based on rational elements, the Committee is preoccupied that the legislation of Costa Rica does not contain explicit norms forbidding discrimination on the grounds of national or ethnic origin.

7. While noting that Act No. 4430 of 21 May 1968 and Act No. 4466 of 19 November 1969 render punishable by a fine any racial segregation with regard to the admission of people of different races to public or private places, the Committee is concerned that the financial penalties thus provided for do not constitute a sufficiently effective measure to prevent, prohibit and eradicate all practices of racial segregation, as required by article 3 of the Convention.

8. With regard to article 4 of the Convention, the Committee is concerned about the lack of specific and adequate legislative provisions prohibiting racial discrimination by private groups or associations. It stresses that article 2, paragraph 1 (d), of the Convention makes it an obligation for States parties to prohibit racial discrimination committed not only by individuals but "by any persons, group or organization".

9. The Committee notes with concern recent manifestations of xenophobia and racial discrimination, largely focused on immigrants, in particular Nicaraguans. In this context, the Committee also expresses its concern about the vulnerable status of refugees and clandestine immigrants, who often live and work in the country in precarious conditions, and who frequently become victims of discrimination in the terms of article 5 of the Convention, in particular paragraph 5 (e).

10. The Committee remains concerned at the situation with regard to the land rights of indigenous peoples in the State party. Despite the efforts made, problems relating to the allocation of land and/or compensation persist. Of special concern have been confrontations arising over the ownership of property, in the course of which indigenous people were killed and vandalism occurred, as in the case of Talamanca.

11. Noting that few cases of racial discrimination have reached the courts or administrative bodies, the Committee is concerned about the effective access to protection and remedies against any acts of racial discrimination of, in particular, the indigenous population, the black minority, refugees and immigrants.

12. The Committee notes with concern that the report of the State party is devoted mainly to the existing legal and administrative framework for ensuring protection against racial discrimination, whereas insufficient information is given to allow an evaluation of the effective enjoyment of the rights provided for by the Convention, in particular by the indigenous population, the black minority, refugees and immigrants.

13. With respect to article 7 of the Convention, the Committee notes that limited information has been given concerning the State party's undertaking to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudice which leads to racial discrimination.

D. Suggestions and recommendations

14. The Committee recommends that the State party take all appropriate legislative measures to ensure that articles 2 and 4 of the Convention are fully reflected in domestic law. In particular, the Committee emphasizes the importance of adequately prohibiting and penalizing acts of racial segregation and discrimination, whether they are committed by individuals or associations.

15. It is also recommended that the State party intensify its measures aimed at preventing and prosecuting any act or manifestation of racial discrimination or xenophobia, including acts of violence against persons belonging to ethnic and national minorities.

16. The Committee recommends that the next periodic report of the State party should include information on the scope and the implications of the new immigration legislation.

17. It is also recommended that the State party take immediate and appropriate measures to ensure the enjoyment of the provisions of article 5 of the Convention also by the indigenous population, the black minority, refugees and immigrants.

18. The Committee recommends that the State party intensify its efforts to ensure a fair and equitable distribution of land, taking into account the needs of the indigenous population. The Committee stresses the importance that the land holds for indigenous peoples and their spiritual and cultural identity, including the fact that they have a different concept of land use and ownership. In this regard, the approval by the Legislative Assembly of the bill for the autonomous development of indigenous people would be of great importance.

19. With regard to article 6 of the Convention, the Committee recommends that the State party make additional efforts to facilitate equal access to the courts and administrative bodies, in particular for the indigenous population, the black minority, refugees and immigrants, in order to ensure equality for all persons.

20. The State party is invited to provide further information on the following issues: (a) the effective enjoyment of the rights set out in the Convention, in particular by the indigenous population, the black population, refugees and immigrants and; (b) measures taken in the field of teaching, education, culture and information in order to combat racial discrimination, in compliance with article 7 of the Convention.

21. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6 of the Convention adopted on 15 January 1992 at the Fourteenth Meeting of State Parties to the Convention.

22. The Committee requests that the State party give wide publicity to its report to the Committee, as well as the present concluding observations.

23. The Committee recommends that the State party's next periodic report, due on 4 January 2000, be an updating report and that it address all the suggestions and recommendations contained in the present concluding observations.

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